

Louis DeBernardo, Esq.
Office of the Solicitor
U.S. Department of Labor
201 Varick Street, Room 983
New York, New York 10014
Tel.: (212) 337-2083
Fax: (212) 337-2112
LD (7352)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ELAINE L. CHAO, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

NEW JERSEY LICENSED BEVERAGE
ASSOCIATION, INC.; MELVIN GITLER;
ROBERT SCERBO; PHIL CITTA; WILLIAM
CLEARY; ROBERT MARCIANI; JOSEPH
ARDIRE; RICHARD BELLSHOT; JAMES
HILL; MICHAEL MARSH; LEWIS
ROTHBART; FRANK ZANOTTI; ANN
SMULEWICZ; RANDY NORMAND; MARY
ROENICK aka MARY RAHMIG;
STEPHAN DI TOMASSO;
MIDLANTIC HEALTHCARE, INC.;
NEW JERSEY LICENSED BEVERAGE
ASSOCIATION EMPLOYEE WELFARE
BENEFIT PLAN,

Defendants.

Civil Action File

No. 04-5692 (JAP)

**AMENDED NOTICE OF
MOTION TO APPROVE
CONSENT JUDGMENTS
AND RULE 67 ORDERS AND
APPOINT INDEPENDENT
FIDUCIARY**

 NEW JERSEY LICENSED BEVERAGE :
 ASSOCIATION, INC.; NEW JERSEY :
 LICENSED BEVERAGE ASSOCIATION :
 EMPLOYEE BENEFIT PLAN; MELVIN :
 GITLER; ROBERT SCERBO; PHIL CITTA; :
 WILLIAM CLEARY; ROBERT MARCIANI; :
 JOSEPH ARDIRE; RIGHARD BELLSHOT; :
 JAMES HILL; MICHAEL MARSH; LEWIS :
 ROTHBART; FRANK ZANOTTI; ANN :
 SMULEWICZ; RANDY NORMAND; :
 MARY ROENICK aka MARY RAHMIG, :

Third-Party Plaintiffs, :

v. :

RECREATIONAL COVERAGE :
 ASSOCIATION, INC.; RECREATIONAL :
 COVERAGE ASSOCIATION OF NEW :
 JERSEY, INC.; HORIZON HEALTHCARE :
 SYSTEMS; NATIONAL BENEFITS :
 ADMINISTRATORS; INTERNATIONAL :
 RISK CONSULTANTS; IMMS/STARLINE :
 GROUP, :

Third-Party Defendants. :

 STEPHAN DI TOMASSO; MIDLANTIC :
 HEALTHCARE, INC., :

Third-Party Plaintiffs, :

v. :

HORIZON HEALTHCARE SYSEMS; :
 NATIONAL BENEFITS ADMINISTRATORS; :
 INTERNATIONAL RISK CONSULTANTS; :
 IMMS/STARLINE GROUP; XYZ CORPS :
 1-10 (said names being fictitious); and :
 JOHN DOES 1-10 (said names being fictitious) :

Third-Party Defendants. :

PLEASE TAKE NOTICE that the Plaintiff, Elaine L. Chao, the Secretary of Labor, United States Department of Labor (“the Secretary”) shall move for the following relief before this Court at 10 A.M., Monday, February 5, 2007:

1. Pursuant to Order of Magistrate Judge John Hughes, dated January 11, 2007, the parties in the above action must file a Motion to Approve Settlement on January 19, 2007. The Honorable Judge Joel Pisano by Order dated December 11, 2006 has scheduled a hearing on this motion for all parties to attend on February 5, 2007 at 10:00 a.m. No brief is necessary for this Motion which is styled “Notice of Motion to Approve Consent Judgments and Rule 67 Orders and Appoint Independent Fiduciary”. Magistrate Hughes originally had ordered this motion to be filed on January 12, 2007 but then granted defendant Midlantic Healthcare, Inc. an extension extending for all parties the filing of their papers until January 19, 2007. Pursuant to these Orders, the Plaintiff’s Motion was filed January 19, 2007. The Court has provided notice by Order filed on January 22, 2007 that the motion is deficient for lack of brief and resetting the date without oral argument for February 20, 2007. This Motion is refiled today with corrective information stated above.

2. Approval of the Proposed Consent Judgment as to Defendants Midlantic Healthcare, Inc., and Stephan DiTomaso;

3. Approval of the Proposed Consent Judgment as to Defendants New Jersey Licensed Beverage Association, Inc., Melvin Gitler, Robert Scerbo, Robert Marciani, Joseph Ardire, Richard Bellshot, James Hill, Michael Marsh, Lewis Rothbart, Frank Zanotti, Ann Smulewicz, and Mary Roenick a/k/a Mary Rahmig, and the New Jersey Licensed Beverage Association Employee Welfare Benefit Plan;

4. Approval of a Deposit Order Pursuant to F.R.Civ.P. 67 as to Defendant Midlantic Healthcare, Inc;

5. Approval of a Deposit Order Pursuant to F.R.Civ.P. 67 as to Defendants New Jersey Licensed Beverage Association, Inc., Melvin Gitler, Robert Scerbo, Robert Marciani, Joseph Ardire, Richard Bellshot, James Hill, Michael Marsh, Lewis Rothbart, Frank Zanolotti, Ann Smulewicz, and Mary Roenick a/k/a Mary Rahmig; and,

6. Approval of an Order Appointing an Independent Fiduciary for the Defendant New Jersey Licensed Beverage Association Employee Benefit Plan.

DATED: January 23, 2007
New York, New York

Respectfully Submitted,

HOWARD M. RADZELY
Solicitor of Labor

BY: 
PATRICIA M. RODENHAUSEN
Regional Solicitor

LOUIS DeBERNARDO
Senior Trial Attorney

U.S. Department of Labor,
Attorneys for Plaintiff.

POST OFFICE ADDRESS:

U.S. Department of Labor
Office of the Solicitor
201 Varick Street, Room 983
New York, New York 10014
Tel. (212) 337-2078
Fax (212) 337-2112